

IC 4-12

ARTICLE 12. APPROPRIATIONS MANAGEMENT

IC 4-12-1

Chapter 1. The Budget Agency

IC 4-12-1-1

Short title; purposes

Sec. 1. (a) This chapter shall be known and may be cited as the budget agency law.

(b) Its general purposes and policies may be perceived only from the entire chapter, but among them are four (4) of particular significance, namely:

(1) Vesting in the budget agency duties and functions and rights and powers which make the execution and administration of all appropriations made by law the exclusive prerogative and authority of that agency, and otherwise denying such prerogative and authority to the budget committee.

(2) Designating an officer of the executive department and four (4) members of the general assembly as members of the budget committee through which they may work between regular sessions of the general assembly and cooperatively propose and recommend to the general assembly the appropriations which appear to be necessary to carry on state government in the succeeding budget period.

(3) Giving the members of the budget committee, who are members of the general assembly, the authority to engage in activities incidental and germane to their legislative powers, including investigations of appropriations made and to be made by law, before and after sessions of the general assembly.

(4) Making the gathering of information, data, and expert opinion, with reference to the revenues of the state from current sources, and with reference to procuring additional revenues to meet appropriations which may be recommended, and making the evaluation of such data and opinion and of appropriations requested by agencies of the state, the concurrent prerogative and authority of the budget committee and the budget agency.

(Formerly: Acts 1961, c.123, s.1.) As amended by Acts 1977, P.L.28, SEC.1; P.L.3-1986, SEC.4.

IC 4-12-1-2

Definitions

Sec. 2. As used in this chapter unless a different meaning appears from the context:

(a) The word "committee" means the budget committee.

(b) The word "director" or the term "budget director" means the person who is director of the budget agency.

(c) The term "appointing authority" means the head of an agency of the state.

(d) The terms "agency of the state" or "agencies of the state" or "state agency" or "state agencies" mean and include every office, officer, board, commission, department, division, bureau, committee, fund, agency, and, without limitation by reason of any enumeration herein, every other instrumentality of the state of Indiana, now existing or which may be created hereafter; every hospital, every penal institution and every other institutional enterprise and activity of the state of Indiana, wherever located; the universities and colleges supported in whole or in part by state funds; the judicial department of the state of Indiana; and all non-governmental organizations receiving financial support or assistance from the state of Indiana; but shall not mean nor include cities, towns, townships, school cities, school towns, school townships, school districts, nor other municipal corporations or political subdivisions of the state.

(e) The terms "budget bill," or "budget bills," shall mean a bill for an act, or two (2) or more such bills, prepared as authorized in this chapter, by which substantially all of the appropriations are made that are necessary and required to carry on state government for the budget period, if and when such bill is, or such bills are, enacted into law.

(f) The term "budget report" shall mean a written explanation of the budget bill or bills, and a general statement of the reasons for the appropriations therein and of the sources and extent of state income to meet such appropriations, together with such further parts as are required by law.

(g) The term "budget period" means that period of time for which appropriations are made in the budget bill or budget bills.

(Formerly: Acts 1961, c.123, s.2.) As amended by Acts 1977, P.L.28, SEC.2.

IC 4-12-1-3

Creation of budget agency; director; establishment of budget committee

Sec. 3. (a) A budget agency is created as an agency of the state. A director, appointed by the governor to serve at his will and pleasure, shall be the chief executive officer of the agency and shall be known as the budget director. The director shall receive the salary fixed by the governor and shall give all of his time to his office and the budget agency. He shall execute such bond as shall be approved by the governor, conditioned for the faithful discharge of his official duties, and an oath of office, and both shall be filed with the secretary of state.

(b) A budget committee consisting of five (5) regular members and four (4) alternate members is established: One (1) regular member is the budget director, while in office. The four (4) remaining regular members must be legislators selected in the following manner. Two (2) members must be senators appointed by the president pro tempore of the senate, one (1) of whom shall be nominated by the leader of the minority political party of the senate. Two (2) members must be representatives appointed by the speaker of the house of representatives, one (1) of whom shall be nominated by the leader of the minority political party of the house of representatives. Legislative appointments to the budget committee shall be made within fifteen (15)

days after the official selection of the president pro tempore of the senate and the speaker of the house of representatives. Each member appointed by the president pro tempore of the senate and each member appointed by the speaker of the house of representatives shall serve at the will and pleasure of his respective appointing leadership or until his term as a member of the general assembly expires, whichever is shorter. Vacancies occurring in the legislative appointments to the budget committee shall be filled for the unexpired term by the president pro tempore of the senate or speaker of the house last elected in like manner as if appointment to such vacant offices were being made originally. Nominations shall be made by the persons above mentioned in this section who were elected and selected at the last preceding session of the general assembly. When there is no such legislative officer entitled to fill vacancies, the governor shall fill such vacancies from among members and members-elect of the senate and of the house of representatives who are members of the same house and political party as the vacating member. Any such appointee of the governor shall serve for the unexpired term of the vacating member or until the first day of the next session of the general assembly.

The four (4) alternate members of the budget committee must be legislators selected in the manner described in this section for the appointment of the four (4) regular legislative members of the budget committee. An alternate member is entitled to participate in the budget committee meetings in the same manner as the regular members, except that he is entitled to vote only if the regular member from his respective house and political party is not present for the vote. The alternate members shall serve the same term of office as the regular members of the budget committee.

(Formerly: Acts 1961, c.123, s.3.) As amended by Acts 1977, P.L.28, SEC.3; P.L.3-1986, SEC.5.

IC 4-12-1-4

Deputy budget directors; staff members, assistants, employees, and clerks; experts

Sec. 4. (a) Two (2) offices are hereby created in the budget agency which shall be responsible to, and junior and subordinate to, the budget director. The persons to fill such offices shall be appointed by the governor to serve at his will and pleasure, shall not be adherents of the same political party, shall receive the salary fixed by the governor, shall give all of their time to the respective offices and to the budget agency, and each shall be a deputy budget director. The director shall designate the order in which such deputy directors shall serve in the place and stead of the budget director in the event of his disability or absence.

(b) The budget director is authorized to employ such staff members, assistants, employees and clerks as he shall require to discharge efficiently and economically the duties and functions and rights and powers of the budget agency established hereby. Within this authority the director may employ on a part time or advisory basis the services of experts in the field of public revenue and public finance and the administration thereof as such services are desirable or necessary in the effective management and operation of the budget agency and in the

discharge of its duties and functions.

(c) Promptly upon the receipt of a request therefor from the budget committee, the budget director shall provide such assistants, employees, clerks and experts as are reasonably required to permit prompt and efficient discharge of the duties and functions and work of the budget committee. To the extent that assistants, employees, clerks and experts ordinarily employed by the budget agency are available and are not required by the budget agency to execute and administer appropriations made by law, the budget director shall utilize these persons to serve the budget committee.

(Formerly: Acts 1961, c.123, s.4.) As amended by Acts 1977, P.L.28, SEC.4.

IC 4-12-1-5

Budget director; budget committee, deputy budget directors; officers and employees, qualifications; financial interest in contracts and appropriations

Sec. 5. The budget director, and the members of the budget committee, and the deputy budget directors, and other officers and the employees of the budget agency shall be persons of known probity and shall possess adequate capacity and training for the work they are to do. No person shall be appointed budget director, or deputy budget director, or a member of the budget committee, or become an officer or employee of the budget agency who has any contract pending with the state, either directly or indirectly, or who shall be financially interested, directly or indirectly, in any appropriation made by law or in any requested appropriation which may come before the budget agency or the budget committee. Persons may be appointed or employed as above notwithstanding the foregoing limitations whose only financial interest in appropriations is in those for personal service from which they are or will be paid for service rendered under this chapter, or for service at any state agency, or for both services.

(Formerly: Acts 1961, c.123, s.5.) As amended by Acts 1977, P.L.28, SEC.5.

IC 4-12-1-6

State agencies; forms; reporting statistical data and information for budget bill or report

Sec. 6. When requested so to do by the governor, or by the budget director, other agencies of the state shall assist the budget agency in the effective discharge of its duties and functions. Any such agency shall employ its equipment and facilities to assist the budget agency to prepare the data and information for a recommended or final budget report and budget bill. The budget agency shall create and prepare forms required for the administration of this chapter, and forms necessary for machine accounting to permit accumulation of statistical data and information required by the budget agency and the budget committee. Every state agency, except the universities and colleges, shall adopt such forms and reporting procedures as are created and prepared by the budget agency for administration and execution of appropriations made by law, when such forms and procedures have

been otherwise approved in the manner required by law.
(Formerly: Acts 1961, c.123, s.6.) As amended by Acts 1977, P.L.28, SEC.6.

IC 4-12-1-7

Statements of state agencies; filing; examination; recommendations for budget report

Sec. 7. (a) On or before the first day of September, in any year that the budget director makes a request under this chapter, each and every state agency shall prepare and file with the budget agency on forms designated by it a written statement, showing in detail the following:

(1) The several amounts actually expended for the administration, operation, maintenance and support of such state agency for at least the two (2) fiscal years which ended immediately preceding such first day of September, and the several amounts estimated by such state agency to be actually expended for the fiscal year to end on June 30 following the next regular session of the general assembly; and the actual and estimated income of such state agency for like periods.

(2) An estimate of the necessary expenditures of such state agency for the proposed budget period as specified in the budget director's request beginning on the first day of July of the calendar year next succeeding the filing of such statement; such estimates or requests for appropriations to defray the estimated expenditures of such department shall be set forth separately for each fiscal year; and the estimated income of such state agency for like period.

(3) A written statement showing concisely the reasons for all estimated expenditures and requests for appropriations contemplated in the preceding subdivision (2), showing particularly the reason for any requested increase or decrease over former appropriations.

(4) Proposals for expenditures for new projects, special purposes or objects, construction, additions, building, improvements, undertakings or expansion of the work of any state agency requiring additional expenditures and capital outlays.

(5) Any other information related to the subject matter of the preceding subdivisions of this subsection (a), or otherwise required to effect the purposes of this chapter, to the extent the budget agency or budget committee deems such information necessary or required, including when requested, citations to any statutes regulating, governing or providing for continuing annual appropriations, fees or other sources of income.

(b) The budget agency shall examine such written statements and review and analyze all of the information, data, estimates, requests for appropriations and for other authorizations to spend state funds as the several state agencies have prepared and filed them. As promptly as possible the budget agency shall complete its examination, review and analysis and shall prepare recommendations for a budget report, and from time to time shall submit these to the budget committee for its consideration at one of its meetings.

(Formerly: Acts 1961, c.123, s.7.) As amended by Acts 1977, P.L.28, SEC.7.

IC 4-12-1-8

Estimates for budget report; investigation and examination of state agencies; hearings by budget committee

Sec. 8. (a) In preparing the various estimates for the budget report, the budget agency may require any state agency to prepare and file with it additional or more detailed information and the director, or any duly authorized employee of the budget agency, may enter and investigate the operation of any state agency, and may examine its records as authorized by the director. A written report of the investigation and examination shall be prepared and filed in the budget agency. The foregoing report shall be made available to the budget committee for review and to aid in its determination of the several amounts or estimates for appropriations the budget committee may recommend for inclusion in the budget report and in the budget bills prepared pursuant to the authority of this chapter.

(b) Upon its own initiative or at the request of any state agency, the budget committee may arrange a hearing or hearings devoted to any matter pertinent to the preparation of a budget report and budget bill at which representatives of the interested state agency, or any citizen, may appear and be heard. As allowed by the committee's policies and procedures, general information and relevant and material evidence, and explanation and argument may then be presented to the budget committee members that will assist them in the performance of their respective duties under this chapter.

(Formerly: Acts 1961, c.123, s.8.) As amended by Acts 1977, P.L.28, SEC.8.

IC 4-12-1-9

Budget report; budget bill; governor's duties; distribution of copies of bill; general assembly committee hearings

Sec. 9. (a) The budget agency shall assist the budget committee in the preparation of the budget report and the budget bill, using the recommendations and estimates prepared by the budget agency and the information obtained through investigation and presented at hearings. The budget committee shall consider the data, information, recommendations and estimates before it and, to the extent that there is agreement on items, matters and amounts between the budget agency and a majority of the members of the budget committee, the committee shall organize and assemble a budget report and a budget bill or budget bills. In the event the budget agency and a majority of the members of the budget committee shall differ upon any item, matter, or amount to be included in such report and bills, the recommendation of the budget agency shall be included in the budget bill or bills, and the particular item, matter or amount, and the extent of and reasons for the differences between the budget agency and the budget committee shall be stated fully in the budget report. Before the second Monday of January, in the year immediately after preparation, the budget report and the budget bill or bills shall be submitted to the governor by the

budget committee. The governor shall deliver to the house members of the budget committee such bill or bills for introduction into the house of representatives.

(b) Whenever during the period beginning thirty (30) days prior to a regular session of the general assembly the budget report and budget bill or bills have been completed and printed and are available for distribution, upon the request of a member of the general assembly an informal distribution of one (1) copy of each such document shall be made by the budget committee to such members. During business hours, and as may be otherwise required during sessions of the general assembly, the budget agency shall make available to the members of the general assembly so much as they shall require of its accumulated staff information, analyses and reports concerning the fiscal affairs of the state and the current budget report and budget bill or bills.

(c) The budget report shall include at least the following five (5) parts;

(1) A statement of budget policy, including but not limited to recommendations with reference to the fiscal policy of the state for the coming budget period, and describing the important features of the budget.

(2) A general budget summary setting forth the aggregate figures of the budget to show the total proposed expenditures and the total anticipated income, and the surplus or deficit.

(3) The detailed data on actual receipts and expenditures for the previous fiscal year or two (2) fiscal years depending upon the length of the budget period for which the budget bill or bills is proposed, the estimated receipts and expenditures for the current year, and for the ensuing budget period, and the anticipated balances at the end of the current fiscal year and the ensuing budget period. Such data shall be supplemented with necessary explanatory schedules and statements, including a statement of any differences between the recommendations of the budget agency and of the budget committee.

(4) A description of the capital improvement program for the state and an explanation of its relation to the budget.

(5) The budget bills.

(d) The budget report shall cover and include all special and dedicated revenue funds as well as the general revenue fund and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(e) The budget agency shall furnish the governor with any further information required concerning the budget, and upon request shall attend hearings of committees of the general assembly on the budget bills.

(Formerly: Acts 1961, c.123, s.9; Acts 1967, c.96, s.1.) As amended by Acts 1977, P.L.28, SEC.9.

IC 4-12-1-10

Budget committee; meetings; time

Sec. 10. The budget committee shall meet at least once during the two (2) months period after adjournment of each regular session of the

general assembly sine die, except that beginning with July the committee shall meet at least once each month, and upon call of the chairman. The committee shall fix the time and place for such meetings.

(Formerly: Acts 1961, c.123, s.10.) As amended by Acts 1977, P.L.28, SEC.10.

IC 4-12-1-11

Budget committee; functions; compensation

Sec. 11. (a) In addition to cooperating in the preparation of a recommended budget report and budget bill as herein provided, the chief functions of the budget committee shall be to serve as liaison between the legislative and executive, including the administrative branches of government, and to provide information to the general assembly with respect to the management of state fiscal affairs so that it may have a better insight into the budgetary and appropriation needs of the various state agencies. To perform such functions the budget committee may:

- (1) Select a chairman and such other officers as the members desire, and hold meetings at stated intervals, and on call of the chairman.
- (2) Make such policies and procedures concerning its organization and operation as are deemed advisable but IC 4-22-2 shall not apply thereto.
- (3) Have access to all files, information gathered and reports of the budget agency.
- (4) Inspect any state agency in order to obtain accurate information concerning its budgetary needs and fiscal management, and examine all of its records and books of account.
- (5) Subpoena witnesses and records, examine witnesses under oath, hold hearings, and exercise all the inherent powers of an interim legislative committee for study of budgetary affairs and fiscal management.
- (6) Attend meetings of appropriate committees of the general assembly and furnish it with information and advice.
- (7) Make such general or special reports to the budget agency and to the general assembly as are deemed advisable.

(b) The salary per diem of the legislative members of the budget committee is seventy dollars (\$70.00) per day each for the time necessarily employed in the performance of their duties, and as provided by law all necessary traveling and hotel expenses, in addition to their legislative salary and legislative expense allowance, fixed by law as members of the general assembly. However, the salary per diem provided in this section is in lieu of any other per diem allowances available for the same day to legislative members of the budget committee in their capacity as members of other legislative committees or commissions.

(Formerly: Acts 1961, c.123, s.11.) As amended by Acts 1977, P.L.28, SEC.11.

IC 4-12-1-12

appropriation lists; reserve from general fund surplus for local school units; allotment system; transfer; emergency or contingency appropriations

Sec. 12. (a) Within forty-five (45) days following the adjournment of the regular session of the general assembly, the budget agency shall examine the acts of such general assembly and, with the aid of its own records and those of the budget committee, shall prepare a complete list of all appropriations made by law for the budget period beginning on July 1 following such regular session, or so made for such other period as is provided in the appropriation. While such list is being made by it the budget agency shall review and analyze the fiscal status and affairs of the state as affected by such appropriations. A written report thereof shall be made and signed by the budget director and shall be transmitted to the governor and the auditor of state and shall be mailed to each member of such general assembly.

(b) Not later than the first day of June of each calendar year, the budget agency shall prepare a list of all appropriations made by law for expenditure or encumbrance during the fiscal year beginning on the first day of July of that calendar year. At the same time, the budget agency shall establish the amount of a reserve from the general fund surplus which such agency estimates will be necessary and required to provide funds with which to pay the distribution to local school units required by law to be made so early in such fiscal year that revenues received in such year prior to the distribution will not be sufficient to cover such distribution. Not later than the first day of June following adjournment of such regular session of the general assembly the amounts of the appropriations for such fiscal year, and the amount of such reserve, shall be written and transmitted formally to the auditor of state who then shall establish the amounts of such appropriations, and the amount of such reserve, in the records of the auditor's office as fixed in such communication of the budget agency.

(c) Within sixty (60) days following the adjournment of any special session of the general assembly, or within such shorter period as the circumstances may require, the budget agency shall prepare for and transmit to the governor and members of the general assembly and the auditor of state, like information, list of sums appropriated, and if required, an estimate for a reserve from the general fund surplus for distribution to local school units, all as is done upon the adjournment of a regular session, pursuant to subsections (a) and (b) of this section to the extent the same are applicable.

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 21-6.1, made for one specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and

with the consent of the agency of state whose appropriations are involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency.

(f) One or more emergency or contingency appropriations for each fiscal year or for the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law, or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

(Formerly: Acts 1961, c.123, s.12; Acts 1972, P.L.31, SEC.1.) As amended by Acts 1977, P.L.28, SEC.12.

IC 4-12-1-12.5

"Block grant" defined; transfers of funds

Sec. 12.5. (a) As used in this section, "block grant" means a block grant established by the federal Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

(b) The governor may transfer funds between block grants only in an amount authorized by state law.

As added by Acts 1982, P.L.21, SEC.2.

IC 4-12-1-13

Inspections of state institutions; compensation of state employees; review by budget agency; collective bargaining

Sec. 13. (a) During the interval between sessions of the general assembly, the budget agency shall make regular or, at the request of the governor, special inspections of the respective institutions of the state supported by public funds. The budget agency shall report regularly to the governor relative to the physical condition of such institutions, and any contemplated action of the institution on a new or important matter, and on any other subject which such agency may deem pertinent or on which the governor may require information. The budget agency shall likewise familiarize itself with the best and approved practices in each of such institutions and supply such information to other institutions to make their operation more efficient and economical.

(b) Except as to officers and employees of universities and colleges supported in whole or in part by state funds, the executive secretary of the governor, the administrative assistants to the governor, the elected officials, and persons whose salaries or compensation are fixed by the governor pursuant to law, the annual compensation of all persons employed by agencies of the state shall be subject to the approval of the budget agency. Except as otherwise provided by IC 4-15-1.8 and IC 4-15-2, the budget agency shall establish classifications and schedules for fixing compensation, salaries and wages of all classes

and types of employees of any state agency or state agencies, and any and all other such classifications affecting compensation as the budget agency shall deem necessary or desirable. The classifications and schedules thus established shall be filed in the office of the budget agency. Requests by an appointing authority for salary and wage adjustments or personal service payments coming within such classifications and schedules shall become effective when approved by, and upon the terms of approval fixed by, the budget agency. All personnel requests pertaining to the staffing of programs or agencies supported in whole or in part by federal funds are subject to review and approval by the state personnel department under IC 4-15-1.8 and IC 4-15-2.

(c) The budget agency shall review and approve, for the sufficiency of funds, all payments for personal services which are submitted to the auditor of state for payment.

(d) The budget agency shall review all contracts for personal services or other services and no contract for personal services or other services may be entered into by any agency of the state before the written approval of the budget agency is given. Each demand for payment submitted by an agency to the auditor of state under these contracts must be accompanied by a copy of the budget agency approval. No payment may be made by the auditor of state without such approval. However, this subsection does not apply to a contract entered into by:

- (1) a college or university supported in whole or in part by state funds; or
- (2) an agency of the state if the contract is not required to be approved by the budget agency under IC 4-13-2-14.1.

(e) The budget agency shall review and approve the policy and procedures governing travel prepared by the department of administration under IC 4-13-1, before the travel policies and procedures are distributed.

(f) The budget agency is responsible for reviewing and advising the governor, as chief executive of the state, or the governor's designee, as to whether any agreement reached pursuant to public employee collective bargaining as provided by statute, other than IC 20-7.5-1, is within the money legally available to the state as an employer.

(g) The budget director, or the director's designee, may serve as a member of the negotiating team selected to represent the state as an employer in the public employee collective bargaining procedure pursuant to statute, other than IC 20-7.5-1.

(h) The budget agency may adopt such policies and procedures not inconsistent with law as it may deem advisable to facilitate and carry out the powers and duties of the agency, including the execution and administration of all appropriations made by law. IC 4-22-2 does not apply to these policies and procedures.

(Formerly: Acts 1961, c.123, s.13; Acts 1971, P.L.25, SEC.1.) As amended by Acts 1977, P.L.28, SEC.13; P.L.3-1989, SEC.17; P.L.26-1989, SEC.1.

IC 4-12-1-13.5

**termination and certification of state agency costs;
appropriation from dedicated funds**

Sec. 13.5. (a) The budget director may determine on or after July 1 of each fiscal year the costs of operating, during the preceding fiscal year, the office of the auditor of state, the office of attorney general, the office of the treasurer of state, the department of administration, the state budget agency and any other state agency that the budget director determines is attributable to the operations of other state agencies. The budget director shall establish a formula to determine those costs.

(b) When the budget director has determined the total attributable amount of those costs for each of the state agencies, he shall certify those amounts to the auditor of state and shall transmit a duplicate of the certification to the treasurer of state.

(c) The amount certified by the budget director for an agency supported by any dedicated fund is appropriated to pay that cost from the dedicated fund used to support that agency. On receipt of the certification of the budget director, the auditor of state shall transfer from the dedicated funds to the state general fund the amounts certified by the budget director. The auditor of state shall make the appropriate entries in the records of those dedicated funds. The treasurer of state shall make the appropriate entries in his records.

As added by Acts 1977, P.L.27, SEC.2. Amended by P.L.18-1991, SEC.2.

IC 4-12-1-14

**Federal aid programs; federal aid management division;
creation**

Sec. 14. (a) It is the legislative intent of this section that the state of Indiana participate in federal aid programs to the extent that it is in the state's interest to so participate. In order that the governor and the general assembly be enabled to make informed decisions about federal aid programs and that efficient and effective administration of these programs may take place, a federal aid management division is established within the state budget agency.

(b) There is created within the budget agency the federal aid management division. The division shall have the following powers and duties:

- (1) To periodically inform the governor and the general assembly of pending and enacted federal aid legislation affecting the state.
- (2) To evaluate new federal aid programs as they become operative, to periodically inform the governor and the general assembly of the existence of such programs, and of conditions which must be met by the state of Indiana for acceptance of such programs, to include any necessary enabling legislation.
- (3) To review and approve all information as requested by the budget director, including but not limited to applications for federal funds and state plans, which shall be submitted to it by all state agencies, except in the case of universities or colleges supported in whole or in part by state funds which are otherwise provided for in this clause, before submission of the information to the proper federal authority. Each regular session of the general

assembly shall be furnished the names of any state agencies that fail to comply with the instructions of the budget agency and budget committee. For universities and colleges supported in whole or in part by state funds, the state budget agency shall review and either approve or disapprove any program application which exceeds one hundred thousand dollars (\$100,000) and all construction grant requests. Program applications which do not exceed one hundred thousand dollars (\$100,000) do not require review or approval by the state budget agency, but a copy of those applications shall be forwarded to the state budget agency for informational purposes only.

A program application which exceeds one hundred thousand dollars (\$100,000) may be submitted to the proper federal funding authority, before the application has been approved by the state budget agency, but the funds may not be spent until after the state budget agency has given its approval.

All construction grant requests must be reviewed and approved by the state budget agency before submission to the federal funding authority.

(4) To compile and analyze data received from state and local governments and agencies accepting federal aid, and periodically report on the same to the governor and the general assembly.

(5) To periodically report to the governor and the general assembly as to administrative or other problems caused by acceptance and operation of federal aid programs on both state and local levels, and to make recommendations for the alleviation of the same.

(6) To maintain an information system on federal aid programs.

(7) To assist, at the discretion of the governor, in the coordination of broad federal programs administered by more than one (1) state agency.

(8) To serve at the governor's designation as the state clearing house under the United States office of management and budget circular A-95, revised.

(9) To prepare and administer an indirect cost allocation plan for the state of Indiana.

(10) To perform such tasks related to the above powers and duties as may be required by the governor.

(c) Staff members and other employees of the federal aid management division shall be appointed in the same manner prescribed by law for selection of other personnel of the budget agency. The governor may, at his discretion, appoint a chief of the federal aid management division.

(Formerly: Acts 1961, c.123, s.13a; Acts 1969, c.383, s.1.) As amended by Acts 1977, P.L.28, SEC.14.

IC 4-12-1-14.1

Federal aid programs; transfer of appropriations between involved state agencies

Sec. 14.1. For federal aid programs that involve more than one (1) state agency, the budget agency may transfer, assign, and reassign any

part of any appropriation made for the federal aid program from a state agency involved in the federal aid program to another state agency involved. However, this transfer may only be made if the uses and purposes to which any part of the appropriation may be transferred, assigned, or reassigned are uses and purposes of the federal aid program involved.

As added by Acts 1977, P.L.27, SEC.3. Amended by P.L.3-1990, SEC.16.

IC 4-12-1-14.2

Oil overcharge funds; appropriation to division of family and children; amount

Sec. 14.2. Notwithstanding any other law, all oil overcharge funds received from the federal government are annually appropriated to the division of family and children for the division's use in carrying out the home energy assistance program. The amount of this annual appropriation for a state fiscal year is equal to:

- (1) the total amount necessary to carry out the program during that fiscal year; minus
- (2) the amount of federal low income energy assistance funds available for the program during that state fiscal year.

As added by P.L.17-1990, SEC.1. Amended by P.L.2-1992, SEC.30.

IC 4-12-1-14.3

Tobacco master settlement agreement fund

Sec. 14.3. (a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(b) There is hereby created the Indiana tobacco master settlement agreement fund for the purpose of depositing and distributing money received under the master settlement agreement. The fund consists of:

- (1) all money received by the state under the master settlement agreement;
- (2) appropriations made to the fund by the general assembly; and
- (3) grants, gifts, and donations intended for deposit in the fund.

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by subsections (d) through (e), and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001.

STEP TWO: Subtract from the STEP ONE sum the amount appropriated by P.L.273-1999, SECTION 8, to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999, and July 1, 2000.

STEP THREE: Multiply the STEP TWO remainder by fifty percent (50%).

(e) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001, and each state fiscal year after that is determined under STEP THREE of the following formula:

STEP ONE: Determine the amount of money received or to be received by the state under the master settlement agreement during that state fiscal year.

STEP TWO: Multiply the STEP ONE amount by sixty percent (60%).

STEP THREE: Add to the STEP TWO product any amounts that were available for expenditure, transfer, or distribution under this subsection or subsection (d) during preceding state fiscal years but that were not expended, transferred, or distributed.

(f) The following amounts shall be retained in the fund and may not be expended, transferred, or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures, transfers, or distributions permitted under subsections (c) through (e).

(2) All interest that accrues from investment of money in the fund, unless specifically appropriated by the general assembly. Interest that is appropriated from the fund by the general assembly may not be considered in determining the maximum amount of expenditures, transfers, or distributions under subsection (e).

(g) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

(h) The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement. If such a shortfall occurs in any state fiscal year, the budget agency shall make the full transfer to the regional health facilities construction account and then reduce all remaining expenditures, transfers, and distributions affected by the shortfall.

As added by P.L.273-1999, SEC.232. Amended by P.L.21-2000, SEC.1; P.L.291-2001, SEC.52.

IC 4-12-1-15

Emergency or contingency appropriations; standards for allocation

Sec. 15. (a) In the absence of other directions, purposes or standards specifically imposed therein, or otherwise fixed by law, an emergency or contingency appropriation to the budget agency which is general and unrelated to any specific agency of the state shall be for the general use, respectively, of any agency of the state, shall be for its emergency or contingency purposes or needs, as the budget agency, in each situation, shall determine and shall fix the amount to transfer, and shall order transfer thereof from such appropriation to the agency of state relieved thereby. From such emergency or contingency appropriations, the budget agency is hereby empowered to make and order allocations and transfers to, and to authorize expenditures by, the various agencies of the state to achieve the purposes, or meet the needs, circumstances and standards following, namely:

- (1) Necessary expenditures for the preservation of public health, and for the protection of persons and property which were not foreseen when the appropriations were made by the previous general assembly.
- (2) Repair of damage to, or replacement of, any building or equipment owned by the state or by any agency of the state which has been so damaged as to materially affect the public safety or utility thereof, or which has been destroyed, if such is necessary to discharge the functions of the state or of any agency of the state, and if such damage or loss was caused by sabotage, fire, flood, wind, war, catastrophe or disaster.
- (3) Repair of damage to, or replacement of, any building or equipment owned by the state or by an agency of the state which has so depreciated or deteriorated or suffered obsolescence as to become unusable, but is required in the discharge of necessary functions of the state or of an agency of the state, and if such depreciation, deterioration or obsolescence was not foreseen at the time appropriations were made by the previous general assembly.
- (4) Emergencies resulting from increase of costs or any other factor or event unforeseen at the time appropriations were made which render insufficient the appropriated funds for food, clothing, maintenance or medical care necessary for the operation of any state institution.
- (5) Emergencies resulting from increase in costs or any other factor or event unforeseen at the time appropriations were made which render insufficient the appropriated funds for the cost of instruction or other costs of operation of any of the universities and colleges supported in whole or in part by state funds.
- (6) In addition to and without limitation by the foregoing, supplementation of an exhausted fund or account of any state agency, whatever the cause of such exhaustion, if such is found necessary to accomplish the orderly administration of such state agency, or the accomplishment of an existing specific

state project: Provided, however, That it shall be an express condition of any such supplementation, that such funds shall not serve to authorize a purpose or purposes which were included in the budget bill, or budget bills, to the previous general assembly but were wholly omitted or excluded from appropriations made by the general assembly.

The provisions of this section shall not change, impair or destroy any fund previously created, nor be deemed to affect the administration of any contingency or emergency appropriations heretofore or hereafter made for specific purposes.

(b) If in the administration of any contingency or emergency appropriation made to the budget agency, it should appear that the allocation by the budget agency of funds to any designated other agency of the state for expenditure is illegal then such appropriation or fund may, consistent with the provisions of such contingency or emergency appropriations and with the approval of the governor, be expended for and on behalf of any other agency of the state by the budget agency pursuant to the standards above set forth. No provisions in this section are intended to conflict or interfere with the powers and duties of the state board of finance.

(Formerly: Acts 1961, c.123, s.14.) As amended by Acts 1977, P.L.28, SEC.15.

IC 4-12-1-15.5

Medicaid contingency and reserve account

Sec. 15.5. (a) The Medicaid contingency and reserve account is established within the state general fund for the purpose of providing money for timely payment of Medicaid claims, obligations, and liabilities. Money in the account must be used to pay Medicaid claims, obligations, and liabilities. The account shall be administered by the budget agency.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Appropriations to the account.

(2) Other Medicaid appropriations transferred to the account with the approval of the governor and the budget agency.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(d) Money in the account at the end of a state fiscal year does not revert.

As added by P.L.340-1995, SEC.38.

IC 4-12-1-16

Transfer of powers and duties

Sec. 16. Wherever in any existing law not expressly repealed by Acts 1961, c. 123 and not inconsistent herewith references are made to the budget committee, the state budget committee, the budget director, the director of the budget, secretary of the budget committee, or the division of the budget, all of such references shall be deemed to mean and refer to the budget agency created by this chapter. All powers,

duties and appropriations of any of the above named agencies contained in any existing law or laws which are not expressly repealed in Acts 1961, c. 123 and are not inconsistent with this chapter, including but not limited to the allotment duties referred to herein and hereby imposed on the budget agency, are hereby transferred to the budget agency the same as if those powers and duties had been expressly enumerated in this chapter.

(Formerly: Acts 1961, c.123, s.15.) As amended by Acts 1977, P.L.28, SEC.16.

IC 4-12-1-17

Repealed

(Repealed by P.L.1-1989, SEC.75.)